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ATTORNEYS FOR APPELLEE:

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**IN THE  
COURT OF APPEALS OF INDIANA**

ROSEVELT (ROOSEVELT) HAMILTON,<sup>1</sup> )  
 )  
 Appellant-Defendant, )  
 )  
 vs. ) No. 49A02-0807-CR-608  
 )  
 STATE OF INDIANA, )  
 )  
 Appellee-Plaintiff. )

APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Timothy Burns, Judge Pro Tempore  
Cause No. 49F08-0805-CM-103471

**February 25, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAILEY, Judge**

<sup>1</sup> The Appellant-Defendant identified himself as “Roosevelt” Hamilton; however, some documents in the record on appeal and the Brief of Appellant use the name “Roosevelt”.

## **Case Summary**

Appellant-Defendant Roosevelt Hamilton (“Hamilton”) appeals his conviction for Panhandling, a Class C misdemeanor,<sup>2</sup> presenting the sole issue of whether his conviction is supported by sufficient evidence. We affirm.

## **Facts and Procedural History**

On May 5, 2008, Indianapolis Metropolitan Police Department Officer Eric Simmons (“Officer Simmons”) was working undercover in the downtown area targeting aggressive panhandling. As Officer Simmons was walking southbound in the 100 block of South Illinois Street, Hamilton stepped in front of Officer Simmons and asked “if [he] could spare some change” and explained that he “went through some rough times.” (Tr. 7, 10.)

Officer Simmons asked Hamilton “what are you looking for,” and Hamilton explained that he wanted to go to McDonald’s and get a hamburger and cup of coffee and needed \$1.10. (Tr. 10.) Hamilton showed Officer Simmons that he had a few coins on him. Officer Simmons “told Mr. Hamilton no and at that point continued to walk southbound on Illinois.” (Tr. 8.) As Officer Simmons continued southbound, Hamilton asked “are you sure that you can’t help me out.” (Tr. 12.) Officer Simmons turned around, and Hamilton approached him and again asked for \$1.10.

Officer Simmons walked away and summoned other officers to arrest Hamilton for panhandling. Hamilton was charged with panhandling, tried in a bench trial, convicted, and sentenced to ten days imprisonment, with eight days suspended. He now appeals.

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<sup>2</sup> Ind. Code § 35-45-17-2.

## Discussion and Decision

When reviewing the sufficiency of the evidence to support a conviction, we will consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). In so doing, we will not assess witness credibility and we will not weigh the evidence. Id. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. Id.

Hamilton was charged with violating Indiana Code Section 35-45-17-2, which provides in relevant part:

A person who knowingly or intentionally does any of the following commits panhandling, a Class C misdemeanor: . . .

(5) Panhandling while blocking:

(A) the path of the individual being solicited; . . .

(9) Panhandling and then following or accompanying the solicited individual without the solicited individual's consent after the solicited individual has declined to donate money or something else of value.

Hamilton contends that he did not “block” Officer Simmons’ path because Officer Simmons stopped to listen to Hamilton and made no attempt to walk around. Officer Simmons testified “basically [Hamilton] walked directly in front of me which if I had continued to walk southbound I’d walked directly into Mr. Hamilton.” (Tr. 11).

The Legislature has not defined “block” as used in the panhandling statute.<sup>3</sup> Nevertheless, we need not express an opinion upon whether Hamilton “blocked” Officer

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<sup>3</sup> Webster’s Third New International Dictionary defines “block” in relevant part as “to render (as a way) unsuitable for passage or progress by obstruction.”

Simmons because the State also charged that Hamilton committed panhandling by following Officer Simmons without his consent after Officer Simmons declined to donate money.

Officer Simmons testified that he proceeded southbound on Illinois Street after telling Hamilton that he would not donate money, and then Hamilton “turned around and said ‘hey, are you sure that you can’t help me out.’” (Tr. 12.) At that point, Officer Simmons turned to face Hamilton who had already passed by him. Hamilton again asked for the \$1.10 “to get that cup of coffee and hamburger.” (Tr. 8.)

Although it is not illegal for one citizen to request monetary aid from another citizen, our Legislature has chosen to prohibit verbal requests made in conjunction with certain acts that might be perceived as intimidating. Only aggressive panhandling is criminalized. Here, there is sufficient evidence that Hamilton committed panhandling by approaching Officer Simmons without consent and asking for money after Officer Simmons had already declined to donate to Hamilton.

Affirmed.

MATHIAS, J., and BARNES, J., concur.